

REMARKS

Claims 1, 3-7, and 12 are currently pending in the application. Claim 1 has been amended to positively recite the deep freezing step. In addition, claim 1 has been recited to clarify the function of the perforated counter-mold as disclosed on page 4, lines 24-25 of the specification. The amendments to the claim do not introduce any new matter.

The rejections of Claims 1, 4-7 and 12 under 35 USC 112, as being indefinite have been overcome by the above amendments to the claim 1.

Claims 1, 3, 4 and 12 are rejected under 35 USC 103(a) as being unpatentable over Fournet et al. Claims 5-7 were rejected as being unpatentable under 35 USC § 103 (a) over US Patent 4,251,579 to Fuornet et al. in view of US Patent 5,894,028 to Alden et al. The cited references fail to render obvious the present invention.

In the response to the first Office Action, it has been explained that no disclosure can be found in Fournet et al of the use of a perforated counter-mold during baking. It is asserted in the Office Action, that the stamp of Fournet et al would be equivalent to the counter-mold of the claimed invention. However; this is not correct since the functions performed are not identical, the fact that a flattening stamp having air openings could be held as being a similar article as a perforated counter-mold does not imply that the flattening stamp of Fournet et al could be used to maintain the pastry dough in its shape during baking. It is submitted that these comments submitted in response to the first Office Action have not been addressed in the Final Office Action.

In Fournet et al, the stamp forms part of a flattening tool (col. 2, lines 60-65 and col. 3, lines 7-9). The stamp is provided with openings through which air is admitted to prevent the pastry from adhering to the stamp (col. 3, lines 9-22).

The only function of the stamp is to cause the pastry to be flattened, i.e. to

be shaped. In the present invention, the counter-mold has a function to maintain the pastry dough in its shape during part-baking and the function of the perforations is to allow steam to be evacuated, not to allow air to be injected.

Furthermore, since the stamp of Fournet et al is fixed to a hydraulic press (col. 3, lines 7-9), it is absolutely impossible to derive from Fournet et al any disclosure or suggestion that the pastry dough would be baked in an oven while being maintained between the mold and the stamp. It is clear and unquestionable that, after flattening, the stamp is removed and the pastry dough is further processed merely by resting in the mold. In that respect, reference may be made also to the passage in col. 3, lines 58-62 in which it is explained that, after flattening, the pastry is pickled and subjected to rising.

Therefore, Fournet et al neither discloses nor suggests the maintaining of the flattened pastry dough between a mold and a perforated counter-mold during baking.

US Patent 5,894,028 to Alden et al. fails to overcome the above discussed deficiencies of Fuornet et al. with respect to rendering unpatentable the present invention. Alden et al., like Fuornet et al., fail to teach pre-baking of a pastry dough by maintaining it in shape between a mold and a perforated counter-mold. Therefore, claims 5-7 are patentable for at least those reasons as to why claim 1, as amended, is patentable.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

In the event that the examiner believes that an interview would advance the prosecution of this application in any way the undersigned is available at the phone number noted below.

Please charge any fee due with this paper to our Deposit Account No. 22-0185, under Order No. 22193-00007-US from which the undersigned is authorized to draw.

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Respectfully submitted,

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